

## **IC 34-31-10**

### **Chapter 10. Limited Liability Arising From the Public Use of School Facilities for Physical Fitness Activities**

#### **IC 34-31-10-1**

##### **Limited liability in addition to any immunity or limited liability provided by the tort claims act**

Sec. 1. The limited liability provided in this chapter is in addition to any immunity or limited liability provided by the Indiana tort claims act (IC 34-13-3).

*As added by P.L.220-2013, SEC.3.*

#### **IC 34-31-10-2**

##### **Activities excluded if a participant is paid to participate**

Sec. 2. This chapter does not apply to an activity if the participant is paid by the school to participate in the activity.

*As added by P.L.220-2013, SEC.3.*

#### **IC 34-31-10-3**

##### **"Community use physical fitness activity"**

Sec. 3. As used in this chapter, "community use physical fitness activity" means an activity in which the general public is invited to use:

- (1) school property;
- (2) school equipment; or
- (3) a school facility;

to participate in a physical fitness activity that is approved as described in section 12 of this chapter.

*As added by P.L.220-2013, SEC.3.*

#### **IC 34-31-10-4**

##### **"Inherent risk of a physical fitness activity"**

Sec. 4. (a) As used in this chapter, "inherent risk of a physical fitness activity" means a condition, danger, or hazard that is an integral part of:

- (1) a physical fitness activity;
- (2) the use of exercise equipment; or
- (3) the use of a facility provided by a school;

as determined by a reasonable person considering the nature of the activity, equipment, or facility.

(b) The term includes the negligent acts of a participant that may contribute to injury to the participant or others, including:

- (1) failing to follow instructions;
- (2) failing to exercise reasonable caution while engaging in an activity; or
- (3) failing to obey written warnings or postings.

*As added by P.L.220-2013, SEC.3.*

#### **IC 34-31-10-5**

##### **"Participant"**

Sec. 5. (a) As used in this chapter, "participant" means a person who is engaging in a community use physical fitness activity.

(b) The term does not include the following individuals if the individual is using the school's facilities in the course of school employment or is participating in an activity as part of an official school function:

- (1) A school employee.
- (2) A person providing, directing, or supervising a physical fitness activity.
- (3) A student who attends the school or another school in the school corporation of the school.

*As added by P.L.220-2013, SEC.3.*

#### **IC 34-31-10-6**

##### **"School"**

Sec. 6. As used in this chapter, "school" means:

- (1) a public school (as defined in IC 20-18-2-15); or
- (2) an accredited nonpublic school (as defined in IC 20-18-2-12).

*As added by P.L.220-2013, SEC.3.*

#### **IC 34-31-10-7**

##### **School not liable for loss from inherent risk of physical fitness activities**

Sec. 7. Except as provided in sections 8 through 10 of this chapter, a school is not liable for the death or injury of a participant that results from an inherent risk of a physical fitness activity. A participant or the representative of a participant may not:

- (1) make a claim against;
- (2) bring or maintain an action against; or
- (3) recover damages from;

a school for injury, loss, damage, or death of a participant that results from the inherent risk of a physical fitness activity.

*As added by P.L.220-2013, SEC.3.*

#### **IC 34-31-10-8**

##### **School may be liable for failure to train or for known dangerous conditions**

Sec. 8. Section 7 of this chapter does not prevent or limit the liability of a school:

- (1) that has actual knowledge of, or that knows or reasonably should have known of, a dangerous condition on the property, facilities, or equipment used in the community use physical fitness activity;
- (2) that fails to properly train a school employee or other person providing, directing, or supervising the community use physical fitness activity, if the school provides an employee or other person to provide, direct, or supervise the activity and the act or omission of the school employee or other person proximately causes the injury, loss, damage, or death; or

(3) for an act or omission that is the result of willful, wanton, or intentional misconduct.

*As added by P.L.220-2013, SEC.3.*

#### **IC 34-31-10-9**

##### **School may be liable if it receives monetary consideration for fitness activities; exceptions; waivers and warning signs**

Sec. 9. Section 7 of this chapter does not prevent or limit the liability of a school that receives monetary consideration for a community use physical fitness activity from any person other than a government agency unless the school:

- (1) posts and maintains a sign on which is printed the warning notice set forth in section 11 of this chapter; or
- (2) has received a signed release from the participant indicating that the participant has received written notice of the warning set forth in section 11 of this chapter.

*As added by P.L.220-2013, SEC.3.*

#### **IC 34-31-10-10**

##### **Warning notice in contract for community use physical fitness activities**

Sec. 10. If there is a written contract between a school and a participant for the provision of a community use physical fitness activity, section 7 of this chapter does not prevent or limit the liability of a school unless the contract contains the warning notice set forth in section 11 of this chapter.

*As added by P.L.220-2013, SEC.3.*

#### **IC 34-31-10-11**

##### **Contents of warning notice**

Sec. 11. (a) The warning notice described in sections 9 through 10 of this chapter must state the following:

##### **WARNING**

Under Indiana law, a school is not liable for an injury to, or the death of, a participant in physical fitness activities at this location if the death or injury results from the inherent risks of the physical fitness activity.

Inherent risks of physical fitness activities include risks of injury inherent in exercise, the nature of a sport, the use of exercise equipment, or the use of a facility provided by a school. Inherent risks also include the potential that you may act in a negligent manner that may contribute to your injury or death, or that other participants may act in a manner that may result in injury or death to you.

You are assuming the risk of participating in this physical fitness activity.

(b) If the warning notice set forth in subsection (a) is posted on a sign as described in section 9(1) of this chapter, the warning must be posted on the sign in letters at least one (1) inch in height and the sign must be placed in a location where participants will likely be

present during the school physical fitness activity.

(c) If the warning notice set forth in subsection (a) is included in a written contract as described section 10 of this chapter, the notice must be in at least 14 point boldface type.

*As added by P.L.220-2013, SEC.3.*

#### **IC 34-31-10-12**

##### **School board or trustees must approve community use physical fitness activity**

Sec. 12. A board of school trustees, a board of school commissioners, a school board of an incorporated town and city, or township school trustees must approve the types of activities that may occur at a school as a community use physical fitness activity under section 3 of this chapter.

*As added by P.L.220-2013, SEC.3.*